

LAW OFFICES
PAULEY PETERSEN & ERICKSON
SUITE 365
2800 WEST HIGGINS ROAD
HOFFMAN ESTATES, ILLINOIS 60195

DOUGLAS H. PAULEY
MAXWELL J. PETERSEN
KEVIN D. ERICKSON
NICK C. KOTTIS
ROLAND W. NORRIS
ERIC T. KRISCHKE
MELANIE L. RAUCH
MARGARET M. CROSBY
MARK D. SWANSON
JANINE A. MODERSON

TELEPHONE (847) 490-1400
FACSIMILE (847) 490-1403

PATENT, TRADEMARK, COPYRIGHT
AND RELATED MATTERS

OF COUNSEL
THOMAS W. SPECKMAN

FACSIMILE

To: Examiner Hai Vo FAX: 571-273-1485
Company: U.S. Patent and Trademark Office
From: Maxwell J. Petersen
Re: Serial No.: 09/696,735
Date: 20 April 2004

Number of pages being transmitted, including cover sheet: 4

If you experience any difficulties receiving this transmission,
please call our office at (847) 490-1400. Thank you.

CONFIDENTIALITY NOTICE

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original message to us at the address above via the United States Postal Service. Thank you.

Docket No.: KC-13.406.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Glynis Allicia WALTON
Richard Macferran SHANE
Glen Thomas MILDENHALL
Michael Thomas HEFFELFINGER

Group No.: 1771

Serial No.: 09/696,735

Examiner: Hai Vo

Filing Date: 25 October 2000

Title: STYRENIC BLOCK COPOLYMER
BREATHABLE ELASTOMERIC FILMS

APPLICANTS' INTERVIEW SUMMARY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Examiner Hai Vo
(via facsimile 571-273-1485)

Dear Sir:

Applicants' attorney thanks the Examiner for the telephone interview on 25 March 2004. The discussion focused on U.S. Patent 6,258,308 to Brady et al. and Applicants' Claims 62 and 63. Brady et al. discloses a film having an elastomer inclusion ratio of about 1.4 -25% by weight styrene-based elastomer in the polyolefin

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on

20 April 2004

20 Apr, 2004
Date

Mauryl Petersen
Signature

KCC-1077-CIP

1

P300/jls

Serial No.: 09/696,735

Docket No.: KC-13.406.1

component (Col. 8, lines 55-67). Thus, the film of Brady et al. may contain about 1.4-25 parts by weight styrene-based elastomer and about 75-98.6 parts by weight polyolefin, based on the combined polymer weight. Applicants' claims, by contrast, require about 50-80 parts by weight high performance elastomer and about 20-50 parts by weight low performance elastomer, based on the combined polymer weight. Applicants' claims thus require at least about twice as much high performance elastomer relative to low performance elastomer, as is possible from the disclosure of Brady et al.

Brady et al. further teaches that a styrene-based elastomer is only used as a modifier, to improve the impact and tear strength of a polyolefin-based film (Col. 9, lines 36-58). Additives which are intended to modify (improve) some property of a polyolefin film are understandably used at low levels. The use of such an additive at levels equal or higher than the polyolefin would defeat the purpose of using the additive as a modifier. The properties of such a film would be dominated by the additive instead of the polyolefin, and the film would no longer be polyolefin-based. For this additional reason, Brady et al. does not suggest using styrene-based elastomers in amounts anywhere near amounts contemplated by Applicants' claims.

The Examiner asked for a Declaration comparing the properties of the films disclosed in Brady et al. to films claimed by Applicants. Applicants are not

Serial No.: 09/696,735

Docket No.: KC-13.406.1

able to provide such a Declaration at this time. Applicants have not, in the past, made films according to Brady et al. Applicants were not able to have such films made and tested within the one-month time frame discussed in the interview.

A showing of criticality is generally important when a prior art reference discloses a broad (generic) range and the claims being examined are directed to a much narrower range within the broad range. In the present case, the prior art does not disclose a broad range encompassing Applicants' claimed range. Instead, the range claimed by Applicants and the range disclosed in the prior art are mutually exclusive, and neither one reads on the other. In this instance, the language of the claims alone should be sufficient to distinguish over the prior art, without resort to extrinsic evidence.

Respectfully submitted,



Maxwell J. Petersen
Registration No. 32,772

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
TEL (847) 490-1400
FAX (847) 490-1403